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**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION**

**UNITED STATES OF AMERICA**

**V.**

**ALPHONSO BUSTER GILBERT,**

Defendant.

)  
)  
) Case No. 7:03-cr-00109  
)  
) **ORDER**  
)  
)  
) By: James C. Turk  
) Senior United States District Judge  
)

In accordance with the accompanying memorandum opinion, it is hereby

**ADJUDGED AND ORDERED**

as follows:

1. The defendant's recent submission entitled "Judicial Notice" is hereby **CONSTRUED** as a motion to vacate, set aside or correct sentence, pursuant to 28 U.S.C.A. § 2255, and the Clerk is **DIRECTED** to docket it as such;
2. The § 2255 motion is hereby **DENIED** without prejudice as successive and stricken from the active docket; and
3. Based upon the court's finding that the defendant has not made the requisite showing of denial of a substantial right, a certificate of appealability is **DENIED**.

**ENTER:** This 15<sup>th</sup> day of July, 2013.

  
Senior United States District Judge